

1 CORPORATION, by and through their attorneys of record, Miller, King & James, LLP and
2 Defendants NATIONAL SPORTING GOODS, DAVID JACOBS and GREG
3 ADELSHEIMER, by and through their attorneys of record, Kirby Noonan Lance & Hoge LLP
4 hereby make their joint motion for this Court to grant Defendants' currently pending Motion to
5 Dismiss Plaintiffs' complaint on the grounds that Plaintiffs lacked the capacity to sue at the
6 time their complaint was filed. Plaintiffs also acknowledge that, as of the date of this joint
7 motion, they still lack the capacity to sue.

8 However, a dismissal is not to be immediately entered but instead the Plaintiffs shall be
9 given forty-five (45) days within which to (i) bring the corporate Plaintiffs into good standing;
10 and (ii) amend their complaint. If both of these conditions are not met within that forty-five
11 (45) day period, the Court shall then enter a dismissal of the case with prejudice.

12 Dated: April 13, 2007

MILLER, KING & JAMES, LLP

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14 By: Patricia I. James
15 David D. Miller
16 Nicholas S. King
17 Patricia I. James
18 Attorneys for Plaintiffs

17 Dated: April 13, 2007

KIRBY NOONAN LANCE & HOGE LLP

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19 By: Jacob M. Slania
20 David J. Noonan
21 Jacob M. Slania
22 Lauren E. Butz
23 Attorneys for Defendants

24 **ORDER**

25 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that Defendants' Motion
26 to Dismiss is granted because Plaintiffs lacked the capacity to sue at the time their complaint
27 was filed. Furthermore, Plaintiffs continue to lack the capacity to sue. However, a dismissal
28 will not be immediately entered but, instead, the Plaintiffs shall be given forty-five (45) days

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JOINT MOTION TO GRANT DEFENDANTS' RULE 12(b)(6) MOTION TO DISMISS
AND ALLOW PLAINTIFFS LEAVE TO AMEND WITHIN 45 DAYS AND ORDER
THEREON

1 within which to (i) bring the corporate Plaintiffs into good standing; and (ii) amend their
2 complaint. If both of these conditions are not met within that forty-five (45) day period, the
3 case will be dismissed with prejudice.

4 Dated:

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6 Judge of the District Court
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27 3
28 **JOINT MOTION TO GRANT DEFENDANTS' RULE 12(b)(6) MOTION TO DISMISS
AND ALLOW PLAINTIFFS LEAVE TO AMEND WITHIN 45 DAYS AND ORDER
THEREON**

**Sino Distribution Network v. National Sporting Goods, et al.
Southern District of California, Case No. 06CV 2338 JM RBB**

PROOF OF SERVICE

I, Monica M. Dube, the undersigned declare that I am, and was at the time of service of the papers referred to herein, over the age of eighteen years, and not a party to the action. My business location is 707 Broadway, Suite 1800, San Diego, California 92101-5314. On April 13, 2007, I served a true copy of the following document on all interested parties in this action as follows:

1. JOINT MOTION TO GRANT DEFENDANTS' RULE 12(b)(6) MOTION TO DISMISS AND ALLOW PLAINTIFFS LEAVE TO AMEND WITHIN 45 DAYS AND ORDER THEREON.


Jacob M. Slania, Esq.
KIRBY NOONAN LANCE & HOGE LLP
600 West Broadway, Suite 1100
San Diego, California 92101-3387
Facsimile (619) 231-9593

Attorneys for Defendants

X U.S. MAIL: I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Accordingly, the above-referenced document(s) were enclosed in a sealed envelope which, in the ordinary course of business, will be deposited with the United States Postal Service the same day; and said envelope was addressed as shown on the attached service list.

X BY FAX: I transmitted a copy of the foregoing document(s) on this date by facsimile transmittal to the number shown on the service list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on April 13, 2007 at San Diego, California.



Monica M. Dube

PROOF OF SERVICE